

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: E. I. DU PONT DE  
NEMOURS AND COMPANY C-8  
PERSONAL INJURY LITIGATION,

Civil Action 2:13-md-2433  
CHIEF JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Elizabeth Preston Deavers

This document relates to:

*David Freeman v. E. I. du Pont de Nemours and  
Company*, Case No. 2:13-CV-1103

**ORDER**

Plaintiff David Freeman's case began on May 31, 2016, and is expected to last for four weeks. There are eight jurors who were selected to serve on this case. The Court was on break from trial on Monday, June 20, 2016, for a juror to attend her grandmother's funeral. On that day, Juror Number 60 contacted the Court's Jury Clerk, Mrs. Frances Green. Juror Number 60 informed Mrs. Green that the juror's husband had been scheduled that day for emergency open heart, bypass surgery to be performed the next day. Juror Number 60 expressed concern about her ability to continue jury service under these circumstances. Juror Number 60 lives in Crooksville, Ohio, nearly 65 miles from this Court, and she indicated that even if her husband's surgery was successful, she did not know how she could also fulfill her obligation to the Court. Juror Number 60 specified that she did not wish to continue her service.

This Court forthwith scheduled a telephone conference with all counsel on this case, which was held that same day, June 20, 2016. Counsel for Plaintiff did not object to the juror's release. Defense counsel requested time to consider the issue, which this Court granted.

Defense counsel has now informed the Court that it objects to the juror being released and suggests that the trial be suspended tomorrow, the day of the surgery, and then the Court may reassess the juror's ability to continue to serve the following day.

Under Rule 48 of the Federal Rules of Civil Procedure, "[a] jury must begin with at least 6 and no more than 12 members . . . ." Fed. R. Civ. P. 48(a). Rule 47 provides that "[d]uring trial or deliberation, the Court may excuse a juror for good cause." Fed. R. Civ. P. 47(c). The Advisory Committee Notes following the text of Rule 47 provide:

**Subdivision (c).** This provision makes it clear that the court may in appropriate circumstances excuse a juror during the jury deliberations without causing a mistrial. Sickness, family emergency or juror misconduct that might occasion a mistrial are examples of appropriate grounds for excusing a juror. It is not grounds for the dismissal of a juror that the juror refuses to join with fellow jurors in reaching a unanimous verdict.

The Court finds that Juror Number 60's husband's emergency open heart surgery, her long commute to the courthouse, and her expressed concern of her ability to continue her attention to the case, constitute good cause for her release. *See id.* Further, a one day continuance of the trial could not guarantee the juror's husband would be no longer in a critical medical condition. Juror Number 60 will, therefore, be excused.

**IT IS SO ORDERED.**

6-20-2016  
DATE

  
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EDMUND A. SARGUS, JR.  
CHIEF UNITED STATES DISTRICT JUDGE